

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

IN THE MATTER OF

Ann E. Corneli,
Petitioner-Appellant,

v.

Union County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-88-0002
Parcel No. 24010-340-149-00

On October 7, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Ann E. Corneli, did not participate in the hearing, but submitted evidence in support of her petition. The Board of Review designated Union County Assessor Gene Haner as its representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ann E. Corneli appeals from the Union County Board of Review decision reassessing property located at 606 W. Montgomery Street, Creston, Iowa. According to the property record card, the subject property consists of a two-story, frame dwelling having 1392 square feet of living area, an unfinished half-basement, an open porch, and an enclosed porch. The dwelling was built in 1903 and has a detached 20 foot by 20 foot garage built in 1920. The improvements have a grade classification of 3+10, and are in normal condition. The site size is 60 foot by 125 foot. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$96,390, representing \$5800 in land value and \$90,590 in improvement value.

Corneli protested to the Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In her opinion, the market value had dropped below the 2006 purchase price of \$72,000. The Board of Review denied the petition.

Corneli then appealed to this Board and reasserted her claim of over-assessment. She contends that since the subject property was purchased in 2006 for \$72,000 and the real estate market has continued to decline; the fair market value of her property should be reduced even lower than the purchase price. The property record card indicates that ownership was transferred to Wells Fargo on March 30, 2006, by a deed in lieu of foreclosure. Wells Fargo then deeded it to Scott Corneli on August 22, 2006 for \$72,000. According to the Department of Revenue sales conditions codes, both of these transfers are considered abnormal transactions and they are noted as such on the property record card.

Gene Haner testified that the sale between Wells Fargo and Corneli was abnormal because it was between a lender and buyer. He believes that the Corneli purchase price was not a legitimate indicator of the property's value on the open market. Haner testified that the Department of Revenue calculated a residential sales ratio of 97.5% showing Union County assessments were generally in line with its home sale prices. Haner also reported that considerable work had been done to the Corneli property after or at the time of purchase, including the addition of a new porch, new windows, and a fairly new roof, all of which increased its value.

Reviewing all the evidence, we find that Corneli's 2006 purchase price is not a reliable indicator of the fair market value of the property as of January 1, 2009, because of the abnormal sales conditions and because it occurred two and one-half years prior to the assessment date. There was insufficient evidence to show that the Corneli property is assessed for more than its fair market value.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The evidence does not support a finding that the Corneli property is assessed for more than fair market value.

Corneli asserts the 2006 purchase price should be the 2009 assessed value. In *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Court determined “[i]t is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value.” Since the Corneli sale occurred more than two years prior to the assessment date and was an abnormal transaction not considered indicative of the property’s fair market value, we do not rely on this evidence to show over-assessment.

We, therefore, affirm the Corneli property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$96,390, representing, \$5800 in land value and \$90,590 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Carroll County Board of Review is affirmed.

Dated this 27 day of October 2009.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer
Karen Oberman
Karen Oberman, Board Chair
Richard Stradley
Richard Stradley, Board Member
Not Present at Hearing/Reviewed Record

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-27</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>